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In re Application of
Manning et al.
Application No. 09/665,190
Filed: September 12, 2000
Attorney Docket No. 1995-18-A2

OFFICE OF PETITIONS

ON PETITION

This decision concerns the July 2, 2003 petition under 37 CFR 1.137(b).

The petition is **DISMISSED**.

On January 29, 2002, a non-final Office action was mailed, setting forth a 3-month shortened statutory reply period.

On July 18, 2002, a response was filed, but was not responsive to the January 29, 2002 Office Action.

On September 16, 2002, a second non-final Office action was mailed, providing a 1-month shortened statutory reply period.

On January 16, 2003, a response was filed along with a request for a 3-month extension of time and the \$930 extension-of-time fee.

On January 30, 2003, an advisory action letter was mailed, informing Applicants that the January 16, 2003 reply was not responsive to the January 29, 2002 Office Action.

On March 14, 2003, a response was filed along with a request for an additional 2-month extension of time and the requisite fee,¹ but was not fully responsive to the January 29, 2002 Office Action, in that, the declaration continues to refer to an application different from the instant application.

The application became abandoned on March 17, 2003.

The petition requests to revive the application based on unintentional abandonment under 37 CFR 1.137(b). For this application, such a petition must be accompanied by:

¹ A maximum 5-month extension of time is permitted in the 9/16/02 Office Action. 3 months were requested on 1/16/03. Only a 2-month extension of time remains on 3/14/03. The USPTO inadvertently charged Deposit Account No. 19-2201 \$1,970 (5-month extension of time) for the 3/14/03 response, rather than \$1,040 (\$1,970 - \$930 = \$1,040). The overcharge of \$930 has been credited to the same deposit account.

- (1) A proper oath or declaration in response to the January 29, 2002 non-final Office Action;
- (2) The \$1,300 petition fee; and
- (3) A statement that the entire delay in filing the required oath or declaration from the due date until the filing of a grantable §1.137(b) petition was unintentional.

The petition includes items (2) and (3).

However, as to item (1), the petition encloses a declaration consisting of: 1 page of "1 of 2"; 4 pages of "2 of 2" each signed by 1 inventor; 3 pages of "3 of 4" each signed by 1 inventor different from those identified on pages "2 of 2." These pages appear to be pages 1 of 3, 2 of 3, and 3 of 3. However, as signed and presented, the declaration evidently is a composite one. In other words, each inventor appears to have been presented only the page containing his/her signature block for signing, and was not shown either the page identifying the application or claimed invention, or the inventive entity. Therefore, the declaration is defective for non-compliance with 37 CFR 1.63(a) and (b). The petition is thus dismissed.

A renewed §1.137(b) petition (no fee) must:

- be filed within **TWO (2) MONTHS** of the mailing date of this decision, unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained;²
- include a proper oath or declaration as stated above; and

should be addressed as follows:

by facsimile: Commissioner for Patents, USPTO
Office of Petitions
(703) 308-6916

Telephone inquiries should be directed to the undersigned at (703) 308-0763.


RC Tang
Petitions Attorney
Office of Petitions

2 37 CFR 1.137(e).